

**REMARKS**

The following remarks are in addition to the remarks set forth in Applicant's Response to July 22, 2009 Office Action filed December 18, 2009.

By this Supplemental Amendment, Applicant is amending Claims 33, 42, 45, 52, 58 and 59 without prejudice or disclaimer. Claims 34–40, 43, 44, 53, 54, 56, 57, 60–62, 65 and 67–70 remain as previously presented. If a marked listing as compared to the amendments filed on December 18, 2009, is preferred, the Examiner is requested to contact the undersigned, and a new marked listing will be provided.

Thus, after entry of the foregoing amendments, Claims 33–40, 42–45, 52–54, 56–62, 65 and 67–70 are pending and presented for further consideration. In view of the foregoing amendments, the remarks set forth below and the remarks recited in Applicant's Response to July 22, 2009 Office Action, Applicant respectfully submits that Claims 33–40, 42–45, 52–54, 56–62, 65 and 67–70 are in condition for allowance.

**AMENDED INDEPENDENT CLAIM 33**

As discussed in the January 14, 2010 interview with the Examiner, Applicant respectfully submits that the claims as previously pending are patentably distinguished over the cited art. However, in an effort to expedite prosecution of the present application, independent Claims 33, 42, 52 and 59 have been further amended in order to clarify the patentably distinguishing features of Applicant's invention. Applicant notes that these claim amendments are not made for patentability purposes, and it is believed that the claims would satisfy the statutory requirements for patentability without the entry of such amendments.

In particular, amended independent Claim 33 is directed to an interactive gaming system for entertaining one or more play participants. The system includes a play structure and one or more play modules disposed within the play structure. Each of the play modules comprises multiple play elements with interactive challenge(s) to be played by play participant(s) as part of an interactive game.

The system also includes a toy wand operable by at least one play participant by motioning the wand in a predetermined manner to transmit a first signal to wirelessly actuate the play element(s). The toy wand further includes a memory configured to (i)

store identification information for uniquely identifying the play participant and (ii) store participant progress information, received by the toy wand, in the interactive game. The toy wand is further configured to wirelessly transmit the identification information or the progress information to the play element(s) during participation by the play participant in the interactive challenge(s), and the play element is configured to adjust the interactive challenge(s) using the progress information received from the toy wand.

As discussed during the interview, neither Briggs, nor Goldsmith, nor a combination thereof, teaches or suggests a substantial portion of independent Claim 33, including:

. . . the toy wand . . . comprising a memory configured to (i) store identification information for uniquely identifying said at least one play participant of said one or more play participants and (ii) store progress information received by the toy wand indicative of a progress of the at least one play participant in the interactive game,

the toy wand being further configured to wirelessly transmit at least one of said identification information and said progress information to at least one of said multiple play elements during participation by said at least one play participant in said one or more interactive challenges, and

wherein the at least one of said multiple play elements is further configured to adjust said one or more interactive challenges using at least said progress information received from the toy wand.

Because the cited art does not disclose, teach or suggest each and every element of amended Claim 33, Applicant asserts that Claim 33 is patentably distinguished over the cited art, and Applicant respectfully requests allowance of Claim 33.

#### **INDEPENDENT CLAIMS 42, 52, AND 59**

Each of amended independent Claims 42, 52 and 59 is believed to be patentably distinguished over the cited references for reasons similar to those set forth above with respect to the patentability of independent Claim 33 and for the different aspects recited therein. That is, neither Briggs, nor Goldsmith, nor Tillery, nor Ackley, nor any combination thereof, teaches or suggests every element of these independent claims.

**Application No.: 09/545,658**  
**Filing Date: April 10, 2000**

**DEPENDENT CLAIMS 34–40, 43–45, 53, 54, 56–58, 60–62, 65 AND 67–70**

Claims 34–40, 67 and 68 depend from independent Claim 33 and are believed to be patentably distinguished over the cited references for the reasons set forth above with respect to Claim 33 and for the additional features recited therein.

Claims 43–45 depend from independent Claim 42 and are believed to be patentably distinguished over the cited references for the reasons set forth above with respect to Claim 42 and for the additional features recited therein.

Claims 53, 54 and 56–58 depend from independent Claim 52 and are believed to be patentably distinguished over the cited references for the reasons set forth above with respect to Claim 52 and for the additional features recited therein.

Claims 60–62, 65, 69 and 70 depend from independent Claim 59 and are believed to be patentably distinguished over the cited references for the reasons set forth above with respect to Claim 59 and for the additional features recited therein.

**NO DISCLAIMERS OR DISAVOWALS**

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

**SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**

Submitted concurrently herewith is a Supplemental Information Disclosure Statement citing seventeen (17) references. Applicant respectfully requests the

**Application No.: 09/545,658**  
**Filing Date: April 10, 2000**

Examiner to consider the pending claims in connection with these references in order to make them of record.

**CONCLUSION**

In view of the foregoing, the present application is believed to be in condition for allowance, and such allowance is respectfully requested. If further issues remain, the Examiner is cordially invited to contact the undersigned such that the issues may be promptly resolved.

Moreover, by the foregoing amendments and remarks no admission is made that any of the above-cited references are properly combinable. Rather, Applicant submits that even if the references are combined, the references still do not teach or suggest the claimed invention.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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